

**IN THE DISTRICT COURT
AT HAMILTON**

**CIV-2017-075-000156
[2018] NZDC 1506**

BETWEEN

THAMES-COROMANDEL DISTRICT
COUNCIL TERRITORIAL AUTHORITY
Plaintiff

AND

MURRAY MARTIN TAIWHANGA
Defendant

Hearing: 30 January 2018

Appearances: Ms Robertson for the Plaintiff
No appearance for the defendant

Judgment: 31 January 2018 at 3.00pm

**RESERVED JUDGMENT OF JUDGE A S MENZIES
[Applicant's application for enforcement of injunction order]**

[1] This judgment follows on from a reserved judgment dated 24 November 2017. In that judgment, orders were made restraining the respondent from carrying out building work on the land known as 105 Ash Street Thames and directing that the building erected on that land be demolished.

[2] The applicant has filed a further application to enforce those orders on the grounds that the respondent has failed to comply with the orders. The latest application dated 22 December 2017 specifically seeks the following orders:

- (a) That the respondent be detained for a term not exceeding three months;
- (b) That the applicant is authorised to enter into the land commonly known as 105 Ash Street Thames (being all the land and certificate of title SA50A/870) and is authorised to demolish and remove the buildings which have been erected on the land without building consent;

- (c) Such further or other orders that may be just or appropriate in the circumstances.

[3] In support of that application an affidavit has been filed in the name of Kenneth John Ward dated January 2018. That affidavit confirms that the order for injunction and demolition was served on the respondent on 30 November 2017.

[4] The affidavit continues that a large portion of the original structure has been removed but some building work from the original structure remains. There is also reference to some additional building work that has apparently been more recently constructed.

[5] The affidavit of Mr Ward confirms service at the same time of other supporting affidavits in the name of Ngaio Anne Bray and Thomas Tame Fox together with an earlier affidavit of Mr Ward. Included in that affidavit of Mr Ward was a notice to the respondent dated 30 November 2017, requiring the respondent to demolish the buildings in terms of the earlier order and advising the respondent in the following terms:

- (3) If you do not demolish the buildings within ten working days of this notice, the Council will have no choice but to take steps to demolish the buildings itself (sic). If the Council is required to take such steps, it will seek to recover its costs from you both (sic), both in respect of any legal proceedings and advice, and the costs of the demolition, in accordance with s 220 of the Building Act 2004.

[6] The respondent did not attend Court on 30 January and has taken no formal steps in the proceedings. The position is therefore that the respondent has partially complied with the order for demolition of the buildings but not completely. The respondent has also commenced the structure of other buildings.

[7] The applicant has given the required notice under s 220 of the Building Act 2004 and is entitled to the order sought. I therefore direct that the applicant is authorised to enter into the land commonly known as 105 Ash Street, Thames (being all the land in Certificate of Title SA50A/870) and is authorised to demolish and remove those buildings which have been erected on the land without building consent

which are the subject of the order for injunction and demolition dated 24 November 2017.

[8] So far as the remaining buildings are concerned, the proceedings are adjourned to 6 March 2018 at 10am. If the applicant wishes to obtain any further orders from the Court in relation to the further buildings referred to in the affidavit of Mr Ward, a further application and supporting affidavit will need to be filed and served detailing the orders sought together with appropriate supporting evidence.

[9] I am not sitting on 6 March 2018 and bringing the matter before me will involve considerable delay. I see no reason why another Judge cannot progress matters on 6 March if that Judge is prepared to do so.

A S Menzies
District Court Judge